

MAR 17 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

DONALD GLENN ESTES,

Plaintiff - Appellant,

v.

JOHN BURROWS; et al.,

Defendants - Appellees.

No. 05-15841

D.C. No. CV-04-00073-PMP

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, Chief Judge, Presiding

Submitted March 8, 2006**

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Nevada state prisoner Donald Glenn Estes appeals pro se from the district court's order denying his motion to reconsider the summary judgment in favor of defendants in his civil rights action. We have jurisdiction pursuant to 28 U.S.C.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1291. We review for abuse of discretion the district court's denial of a motion to reconsider, *Kona Enter., Inc. v. Estate of Bishop*, 229 F.3d 877, 883 (9th Cir. 2000), and we may affirm on any ground supported by the record, *First Pac. Bank v. Gilleran*, 40 F.3d 1023, 1024-25 (9th Cir. 1994). We affirm.

Estes's sole contention is that he did not receive the *Rand* notice the district court mailed to him. *See Rand v. Rowland*, 154 F.3d 952 , 961-62 (9th Cir. 1998). The district court did not abuse its discretion in denying reconsideration on this ground because Estes conceded that he had received a *Rand* notice a few months earlier in another action and therefore was aware of the deadline for filing opposition to summary judgement and the possible consequences of failing to oppose. *See id.*

Moreover, Estes's opposition to summary judgment does not raise a triable issue of fact that defendants acted with deliberate indifference by knowingly exposing him to tuberculosis. *See Farmer v. Brennan*, 511 U.S. 825, 844 (1994).

AFFIRMED.